

January 26, 2004
OPINION 04-0012

Mr. A. R. "Buddy" Hodgkins, Jr.
Assistant Executive Director
Louisiana Sheriff's Association
1175 Nicholson Drive
Baton Rouge, LA 70802

Dear Mr. Hodgkins:

You advise this office that R.S. 15:542 (Megan's Law) imposes certain registration requirements on convicted sex offenders. (See Footnote 1, attached). You ask if these registration requirements apply to those who were convicted of such crimes prior to the enactment of the law. We answer in the affirmative to your question.

The Louisiana Supreme Court addressed this question in the case entitled State vs. Olivieri, 779 So.2d 735 (La. 2001) cert. den., 533 U.S. 936, 121 S.Ct. 2566, 150 L.Ed.2d 730 (U.S. La. June 25, 2001) and cert. den., 534 U.S. 892, 122 S.Ct. 208, 151 L.Ed.2d 148 (U.S. La. Oct. 01, 2001). In Olivieri, the Court reviewed the provisions of R.S. 15:542 and concluded that the State may require sex offenders to comply with registration requirements that the legislature enacted after the commission of their offenses. The court determined that retroactive application of Megan's Law requiring registration and public notification of these sex offenders did not impose punishment and did not violate state and federal ex post facto clauses. We enclose a copy of that case for your review.

We have also reviewed the most recent legislation affecting R.S. 15:542 (Act 83 of the 2002 Regular Legislative Session and Acts 215 and 574 of the 2003 Regular Legislative Session) and find nothing in those subsequent amendments which would alter our conclusion, specifically, that the registration requirements of R.S. 15:542 currently in effect are applicable to those sex offenders convicted prior to the enactment of the law.

We hope the foregoing addresses your concerns. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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¹ R.S. 15:542 states, in its entirety:

A. Any adult residing in this state who has pled guilty to, has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of any sex offense and any juvenile who has pled guilty or has been convicted of a sex offense as provided for in [Children's Code Article 857](#) shall register with the sheriff of the parish of the person's residence and with the chief of police if the address of the residence is located in an incorporated area which has a police department. If the adult or juvenile resides in a parish with a population in excess of four hundred fifty thousand, he shall register with the police department of his municipality of residence.

B. The person and the juvenile sex offender shall, within twenty-one days of establishing residence in Louisiana, or if a current resident, within twenty- one days after conviction or release from confinement, provide the sheriff and the police chief or, if the residence is in a parish with a population in excess of four hundred fifty thousand, the police department with the following information: his name, address, and place of employment; the crime for which he was convicted; the date and place of such conviction; any aliases he has used; a description of every vehicle registered to him, including license plate number; his social security number; and a description of the physical characteristics of the sex offender, including but not limited to sex, race, hair color, eye color, height, age, and weight. Excluding any juvenile except as required under the provisions of R.S. 15:542(B)(5)(c), the offender shall also:

(1) Give notice of the crime for which he was convicted, his name, address, a description of his physical characteristics as required by this Subsection, and a photograph or copy thereof to:
(a) At least one person in every residence or business within a one-mile radius in a rural area and a three- tenths of a mile radius in an urban or suburban area of the address where the defendant will reside upon release.

(b) The superintendent of the school district where the defendant will reside, who shall notify the principal of every school located within a one-mile radius of the address where the offender will reside and may notify the principals of other schools as he deems appropriate. The principal of any such school upon receipt of the notification shall post notices in conspicuous areas at the school which state the defendant's name, address, and the crime for which he was convicted. Failure of the superintendent or principal to comply with the provisions of this Subparagraph shall not be construed to impose civil liability on any person. The notice sent by the superintendent shall be accompanied by two clear, recent photographs, or a clear photocopy thereof, of the offender. The photographs, which shall be provided by the offender, shall be taken after release and within sufficient time to accompany the notification which is required under the provisions of this Chapter.

(c) The lessor, landlord, or owner of the residence or the property on which he resides.

(d) The superintendent of the park, playground, and recreation districts within the designated area where the offender will reside only if the victim was under eighteen years of age at the time of the commission of the offense. The superintendent shall notify the custodians of the parks, playgrounds, and recreational facilities in the designated area of the offender's name, address, and the crime for which he was convicted. The notice sent by the superintendent shall be accompanied by two clear, recent photographs, or a clear photocopy thereof, of the offender. The photographs, which shall be provided by the offender, shall be taken after release and within sufficient time to accompany the notification which is required under the provisions of this Chapter.

(e) Notwithstanding the provisions of Paragraph (1) of this Subsection, persons convicted of [R.S. 14:89\(A\)\(2\)](#) shall not be required to furnish a photograph as required by that Paragraph.

(2)(a) Give notice of the crime for which he was convicted, his name, a description of his physical characteristics as required by this Subsection, and his address by mail to all people residing within the designated area within twenty-one days of the sentencing or release from confinement or within twenty- one days of establishing residency in the locale where the offender plans to have his domicile, and that the notice shall be published on two separate days within the applicable period provided for herein, without cost to the state, in the official journal of the governing authority of the parish where the defendant plans to reside and, if ordered by the sheriff or police department, in a newspaper which meets the requirements of [R.S. 43:140\(3\)](#) for qualification as an official journal and which has a larger or smaller circulation in the parish than the official journal. The notice provided to the official journal or other designated newspaper pursuant to this Subparagraph shall also include a recent photograph of the offender or a clear photocopy of a recent photograph of the offender.

(b) In the parish of St. Tammany, the sheriff or police department may order that the notice be published in a newspaper which meets the requirements of [R.S. 43:140\(3\)](#) for qualification as an official journal and which has a larger circulation in the parish than the official journal.

(c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this Paragraph, persons convicted of [R.S. 14:92\(A\)\(7\)](#) and [R.S. 14:89\(A\)\(2\)](#) shall not be required to publish notice of the crime for which they were convicted in the official journal or any newspaper required by those Subparagraphs.

(3) Give any other notice deemed appropriate by the court in which the defendant was convicted of the offense that subjects him to the duty to register, including but not limited to signs, handbills, bumper stickers, or clothing labeled to that effect.

(4) State under oath where he will reside after sentencing or release.

(5)(a) Give notice to the Louisiana Bureau of Criminal Identification and Information of the name and location of any institution of postsecondary education at which the person is a student or a worker within five days of his becoming a student or a worker at such institution of postsecondary education.

(b) Additionally, the person shall notify the Louisiana Bureau of Criminal Identification and Information of each change in enrollment or employment status at an institution of postsecondary education.

(c) Any juvenile adjudicated delinquent under Title VIII of the Louisiana Children's Code for the commission of a sex offense as defined under the provisions of [R.S. 15:541\(14.1\)](#) or [R.S. 15:541\(16\)](#) shall be exempt from any notification requirements of this Section except for the notification to the Louisiana Bureau of Criminal Identification and Information as required by the provisions of [R.S. 15:542\(B\)\(5\)\(a\)](#) and (b).

C. (1) Any person required to register pursuant to this Section shall update his registration annually on the anniversary of the initial registration with the appropriate law enforcement official as determined in accordance with Subsection A of this Section. Such annual registration shall continue for the period of registration required under the provisions of [R.S. 15:542.1\(H\)](#). The offender shall notify the law enforcement official of his current address and shall submit two forms of proof of residence, including but not limited to a driver's license, bill for utility service, or bill for telephone service.

(2) Any person required to register pursuant to this Section shall send written notifications upon change of address in accordance with the following provisions:

(a) If the offender changes his residence address within the same parish, the person shall send written notice of the change of address to the sheriff and the police chief or, if the residence is within a parish with a population in excess of four hundred fifty thousand, the police department, within ten days of establishing the new residence. Within thirty calendar days from receipt of this written notification, the sheriff shall send written notification of the offender's address change to the Department of Public Safety and Corrections.

(b) If any person required to register pursuant to this Section moves to a new parish, the person shall register with the sheriff in the new parish and the police chief or, if the residence is within a parish with a population in excess of four hundred fifty thousand, the police department in such parish, within ten days of establishing the new residence. The person shall also send written notice, within ten days after the change of address in the new parish, to the sheriff and the police chief or, if the residence is within a parish with a population in excess of four hundred fifty thousand, the police department with whom the person last registered. Within thirty calendar days from receipt of this written notification, the sheriff shall send written notification of the offender's address change to the Department of Public Safety and Corrections.

D. The offender shall pay to the sheriff and the police department with whom he is required to register in accordance with this Section and in accordance with any rule adopted by the judges of the judicial district court in the jurisdiction with regard to indigency an annual registration fee of sixty dollars to help defray the costs of maintaining the record of the sex offender. He shall pay such fee upon the initial registration and on the anniversary thereof.

E. The sheriff or police department shall obtain a photograph of the person and shall obtain a copy of the person's fingerprints.

F. (1) A person who fails to register as required by this Section shall, upon first conviction, be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

(2) Upon second or subsequent convictions, whoever fails to register as required by this Section shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned with or without hard labor for not less than three years nor more than ten years without benefit of parole, probation, or suspension of sentence.

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15-A Constitutional Law

R.S. 15:542

Louisiana Supreme Court has determined that the State may require sex offenders to comply with registration requirements enacted after commission of offenses.

Mr. A. R. "Buddy" Hodgkins, Jr.
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Date Received:
Date Released: January 26, 2004

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